

TOWN OF DUMMERSTON

Development Review Board

Application for Right of Way

HEARING SPECIFICS

Permit Application Number: 3704

Date Received: January 25, 2023

Applicant: Vermont Trails LLC / Victor Cormier

Mailing Address: 623 Kelly Rd., Dummerston, VT, 05301

Location of Property: Parcel 628, 623 Kelly Rd., Dummerston, VT, 05301

Owners of Record: Vermont Trails LLC

Application: Right of Way

Date of Hearing: February 21, 2023

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of application #3704 for Right of Way under the Town of Dummerston Zoning Bylaw Section 602.
2. The subject property is 195.5 acres, located at 623 Kelly Rd., in the Town of Dummerston (tax map parcel no. 000621). The property is more fully described in a Deed recorded at Book 133: Page 572-574 in the Town of Dummerston Land Records.
3. The property is located in the Conservation District as described on the Town of Dummerston Zoning Map on record at the Town of Dummerston municipal office and Section 205 of the Zoning Bylaw.
4. On February 3, 2023, notice of a public hearing was published in The Brattleboro Reformer.
5. On February 1, 2023 notice of a public hearing was posted at the following places:
 - The Dummerston Town Office.
 - The West Dummerston Post Office.
 - The Dummerston School.
6. On February 5, 2023, notice of a public hearing was posted at the following place: 623 Kelly Rd., which is within view of the public-right-of-way most nearly adjacent to the property for which the application was made.

7. On February 1, 2023, a copy of the notice of a public hearing was mailed to the Applicant.
8. On February 1, 2023, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application:
 - a. Ansaldi Alex, Aaron & Adam & Casey Amoree, 186 Bidwell St, Manchester, CT, 06040
 - b. Brattleboro Water Dept, 230 Main St, Brattleboro, VT 05301
 - c. Brown Paul Estate Carcare Linda, Brown Stephen D Estate, 46 Meyers Rd, Dummerston, VT 05301
 - d. Filion Peter, PO Box 797, Brattleboro, VT 05302
9. The application was considered by the Development Review Board (DRB) at a public hearing on February 21, 2023.
10. The Development Review Board reviewed the application under the Town of Dummerston Zoning Bylaw, as amended April 6, 2022.
11. Present at the hearing were the following:
 - a. Members of the Development Review Board:
Alan McBean (Chair), Chad Farnum, Peter Doubleday.
 - b. Others:
Roger Jasaitis (Zoning Administrator), Via Zoom: Victor Cormier (Applicant, joining late in the hearing), Gail Brown, Paul Brown.
12. A site visit was conducted on February 21, 2023.
13. Present at the site visit were the following:
 - a. Members of the Development Review Board:
Alan McBean (Chair), Chad Farnum, Peter Doubleday.
 - b. Others:
Roger Jasaitis (Zoning Administrator).
14. During the course of the hearing the following exhibits were submitted to the DRB:
 - a. Application for Right of Way, number: 3704.

FINDINGS OF FACT

Based on the application, testimony, exhibits, and other evidence the DRB makes the following findings:

1. Via Zoom: Victor Cormier (Applicant), described the application (#3704) and reason for the request for a Right of Way (RoW) to access a future subdivision of the parcel. This RoW would provide access to a future parcel that would not have road access. The RoW would be on the existing driveway that was created in 2022 to serve this future lot. It runs from

- » Kelly Rd. to the future parcel boundary. He intends to subdivide 10 acres and have his children move here.
2. The Zoning Administrator clarified that this application is for a Right of Way to serve a future parcel Subdivision according to the Applicant.
3. The RoW will extend to the edge of the future property line subdivision.
4. The DRB noted that the driveway access was constructed without proper permitting. It also noted the presence on site of a new foundation.
5. The Zoning Administrator noted no Zoning permits have been issued for any of this activity but he had met with the applicant about this activity.
6. The Applicant assured the DRB that he has every intention of fulfilling the Zoning requirements in the way of permits. He had been waiting for the State to issue a Wastewater permit first. He realizes now that this was not the proper course of action.
7. Alan McBean (Chair) asked the Applicant if the parcel is in the Current Use program and/or the Vermont Land Trust? Victor Cormier stated that the parcel is in the Current Use program and the Vermont Land Trust but the 10 acres that he intends to subdivide is not in either program. He further clarified that the Land Trust is aware of the need for access to the proposed subdivided parcel with an access road across the field. He has been in touch with the Vermont Land Trust and they are fine with this activity.
8. Chad Farnum (DRB) clarified that this RoW is pursuant to a future subdivision.

DECISION AND CONDITIONS

Based upon these findings, and subject to the conditions set forth below, the Development Review Board approves the application for a Right of Way:

1. The DRB finds that this application for a Right of Way, as conditioned, meets the requirements of the Town Plan and Zoning Bylaw.
2. The application was considered under *Section 726 of the Zoning Bylaw; Site Plan Review Criteria*.

1. *Compatibility with adjacent land uses.*

The DRB finds that this application is compatible with the adjacent land uses.

2. *Maximum safety of vehicular circulation between the site and the street network.*

The DRB finds that this application provides adequate safety and vehicular circulation.

3. *Adequacy of circulation, parking and loading facilities with particular attention to safety.*

Not applicable.

4. *Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection of adjacent property.*

Not applicable.


5. *Lighting, noise, odors, protection of renewable energy resources.*

Not applicable.

3. *The Zoning Bylaw Section 602* requires that access easements or rights-of-way shall not be less than 20 feet in width. If serving more than two lots or uses, the DRB may require a right-of-way not to exceed 40 feet in width to ensure safe and adequate access. The applicant must comply with this Section.
4. It is the Applicant's responsibility to be in compliance with any and all Town or State required or issued permits at all times or be in violation of the Zoning Bylaw.
5. Expiration: This Zoning Permit approval will expire by limitation two (2) years from the date of approval. All work must be completed as shown on any approved plan before the expiration date.

The following members of the Dummerston Development Review Board participated and concurred in this decision: Alan McBean, Chad Farnum, Peter Doubleday.

Dated at Dummerston, Vermont, this 8th day of March, 2023.



Signed for the Dummerston Development Review Board

ALAN J. McBEAN

Print Name

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.